

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 513

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO HONEY; AMENDING SECTION 22-2802, IDAHO CODE, TO REVISE THE DECLARATION OF POLICY AND PURPOSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-2803, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 22-2807, IDAHO CODE, TO REVISE THE DUTIES OF THE IDAHO HONEY ADVERTISING COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 28, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2808, IDAHO CODE, TO PROVIDE FOR RULEMAKING; AMENDING SECTION 22-2808, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE VERBIAGE, TO REVISE A CODE REFERENCE, TO REMOVE PROVISIONS RELATING TO RULEMAKING AND TO REMOVE PROVISIONS RELATING TO VIOLATIONS AND PENALTIES; AMENDING CHAPTER 28, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2810, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS MAY ENTER ANY FACTORY, WAREHOUSE OR ESTABLISHMENT IN WHICH HONEY IS PROCESSED, PACKED OR HELD FOR DISTRIBUTION OR ANY VEHICLE BEING USED TO TRANSPORT HONEY FOR THE PURPOSE OF SAMPLING THE HONEY, TO PROVIDE FOR INSPECTIONS, TO PROVIDE FOR SAMPLING AND ANALYSIS METHODS, TO PROVIDE FOR DETERMINATIONS OF ADULTERATION BASED ON OFFICIAL SAMPLES, TO PROVIDE FOR WARRANTS DIRECTING THAT PREMISES BE SUBMITTED TO INSPECTION, TO PROVIDE FOR ENTRY UPON ANY PUBLIC OR PRIVATE PREMISES INCLUDING VEHICLES OF TRANSPORT FOR THE PURPOSE OF SAMPLING HONEY AND EXAMINING AND COPYING CERTAIN RECORDS, TO PROVIDE FOR FORWARDING OF RESULTS OF ANALYSES OF OFFICIAL SAMPLES TO PACKERS, PURCHASERS AND RETAILERS AND TO PROVIDE THAT PORTIONS OF SAMPLES SHALL BE FURNISHED TO CERTAIN PACKERS, PURCHASERS AND RETAILERS; AMENDING CHAPTER 28, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2811, IDAHO CODE, TO PROVIDE PENALTIES FOR VIOLATIONS AND TO PROVIDE FOR WARNINGS AND OTHER ADMINISTRATIVE ACTION IN REGARD TO MINOR VIOLATIONS; AMENDING CHAPTER 28, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2812, IDAHO CODE, TO PROVIDE FOR STOP SALE, USE, OR REMOVAL ORDERS, TO PROVIDE FOR THE SEIZURE OF CERTAIN HONEY, TO PROVIDE FOR THE DISPOSAL OF CONDEMNED HONEY AND TO PROVIDE THAT CLAIMANTS SHALL BE GIVEN AN OPPORTUNITY TO APPLY TO THE COURT FOR RELEASE OF HONEY OR FOR PERMISSION TO PROCESS OR RELABEL HONEY; AMENDING SECTION 22-2809, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE VERBIAGE; AMENDING SECTION 22-2810, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE VERBIAGE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 22-2811, IDAHO CODE, TO REDESIGNATE THE SECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 22-2802, Idaho Code, be, and the same is hereby amended to read as follows:

22-2802. DECLARATION OF POLICY AND PURPOSE OF ~~ACT~~ CHAPTER. It is hereby declared, as a matter of legislative determination, that the honey

1 industry of Idaho is in dire need of concentrated state and national adver-  
 2 tising and promotion to increase the consumption of honey; that other states  
 3 are promulgating advertising and promotion ~~campaigns~~ campaigns for the bet-  
 4 terment of the honey industry; that honey is an essential food and its use  
 5 should be placed in name and fact before the ~~housewives~~ people of America;  
 6 that in the interest of public welfare and general prosperity of the people  
 7 of the state of Idaho, the honey industry and beekeeping in general should be  
 8 maintained and encouraged so that the many food values and quality of honey  
 9 and the many pollinating values of the domesticated honey bees may be better  
 10 understood, protected and greater use thereof made.

11 SECTION 2. That Section 22-2803, Idaho Code, be, and the same is hereby  
 12 amended to read as follows:

13 22-2803. DEFINITIONS. Whenever used or referred to in this ~~act~~  
 14 chapter, unless a different meaning clearly appears from the context:

15 (1-) ~~The term~~ "eCommission" means the Idaho honey advertising commis-  
 16 sion.

17 (2-) ~~The term~~ "hHoney producer" or "beekeeper" means a person, firm or  
 18 corporation engaged in the art of raising, harboring, keeping or breeding  
 19 domesticated honey bees either for the purpose of gathering honey or the pro-  
 20 duction of queens and/or packaged bees.

21 (3-) "Honey by-products" means items using honey as a base such as  
 22 creamed honey, whipped honey, or the like.

23 (4) "Packer" means any honey producer or beekeeper or person who pro-  
 24 cesses and packs honey for commercial retail sales.

25 (5) "Person" includes an individual, partnership, corporation, firm,  
 26 association and agent.

27 (6) "Director" means the director of the Idaho state department of  
 28 agriculture or his designated representative.

29 (7) "Official sample" means a sample of honey taken by the director or  
 30 an authorized agent in accordance with the provisions of section 22-2810,  
 31 Idaho Code.

32 SECTION 3. That Section 22-2807, Idaho Code, be, and the same is hereby  
 33 amended to read as follows:

34 22-2807. DUTIES. The commission shall set honey quality, identity and  
 35 labeling standards by rule, plan and conduct a campaign for honey and honey  
 36 byproduct by-product advertising, publicity, merchandising, sales promo-  
 37 tion and research, including bee research, and public education of beekeep-  
 38 ing and honey production, by contracting with a service of the hereinabove  
 39 mentioned, or jointly with any university or other state agency or states of  
 40 the United States and its territories, or individually.

41 SECTION 4. That Chapter 28, Title 22, Idaho Code, be, and the same is  
 42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 43 ignated as Section 22-2808, Idaho Code, and to read as follows:

44 22-2808. RULES, STANDARDS, DEFINITIONS. The commission is hereby  
 45 charged with the enforcement of this chapter, and after due publicity and due

1 public hearing is empowered to promulgate and adopt such reasonable rules  
 2 as may be necessary to carry into effect the full intent and meaning of this  
 3 chapter, including the establishment of fees for services. The commission  
 4 is hereby empowered to adopt rules establishing definitions for honey in-  
 5 cluding establishing standards of identity, quality and labeling and such  
 6 other rules as may be necessary for the enforcement of any provision of this  
 7 chapter. In establishing standards of identity, quality and labeling the  
 8 commission shall give consideration to any definitions and standards used by  
 9 a federal agency, another state or an organization administering a regional,  
 10 multi-regional, national or international agreement on honey.

11 SECTION 5. That Section 22-2808, Idaho Code, be, and the same is hereby  
 12 amended to read as follows:

13 22-2808~~9~~. LEVY AND COLLECTION OF TAXES -- CHANGE OF TAX BY REFERENDUM  
 14 -- VIOLATIONS -- PENALTY. (a) There is hereby levied and imposed upon each  
 15 colony or hive of bees within the state of Idaho on July 1 of each year a con-  
 16 tinuing annual tax of five cents (5¢) per hive or colony of bees beginning in  
 17 the year 1970 for the purpose of carrying out the provisions of this chapter  
 18 ~~28, title 22, Idaho Code~~. Hobbyist beekeepers, as defined in chapter 25, ti-  
 19 tle 22, Idaho Code, are exempt from taxation under this section. Provided  
 20 however, that any hobbyist beekeeper who desires to support the efforts of  
 21 the commission, as set forth in section 22-2807, Idaho Code, and desires to  
 22 be included in registration lists distributed as authorized under section  
 23 22-281~~4~~5, Idaho Code, may register with the commission for that purpose by  
 24 remitting an annual registration fee of ten dollars (\$10.00).

25 (b) The tax may be decreased to not less than three cents (3¢) per hive  
 26 or colony per year or it may be increased to not more than ten cents (10¢) per  
 27 hive or colony per year, if approved by a majority of the beekeepers voting in  
 28 a referendum held for the purpose of determining whether such levy of the tax  
 29 shall or shall not be changed. If the levy of the tax is changed, the levy of  
 30 the tax will continue annually at the changed rate until again changed by an-  
 31 other referendum. Any resident of Idaho who is a registered Idaho beekeeper  
 32 with the department of agriculture may vote at such referendum. Any referen-  
 33 dum held for the purpose of changing the levy of such tax shall be held at the  
 34 annual meeting of the Idaho honey industry association or any successor or-  
 35 ganization to this group.

36 (c) Notice of the tax provided for in this section shall be mailed no  
 37 later than June 1 and the tax shall be due and payable on or before July 1 of  
 38 each year, and it shall be collected by the Idaho department of agriculture  
 39 and shall forthwith be paid over by the Idaho department of agriculture to  
 40 the Idaho honey advertising fund.

41 (d) Said tax shall be a lien upon all apicultural products, equipment,  
 42 bees and property of the person owning or controlling such bees and shall  
 43 be prior to all other liens or encumbrances except liens which are declared  
 44 prior by operation of the statutes of this state.

45 ~~(e) The Idaho honey advertising commission may promulgate the neces-~~  
 46 ~~sary rules and forms to implement and carry out this section.~~

47 ~~(f) Any person who shall violate the provisions of this section or the~~  
 48 ~~rules promulgated under it shall be guilty of a misdemeanor and upon convic-~~  
 49 ~~tion thereof shall be punished by a fine of not more than three hundred dol-~~

~~lars (\$300) or imprisonment for a period not to exceed ninety (90) days, or both such fine and imprisonment, and all fines collected for violation of this section shall be paid into the Idaho honey advertising fund.~~

SECTION 6. That Chapter 28, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-2810, Idaho Code, and to read as follows:

22-2810. SAMPLING AND ANALYSIS. (1) For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the director or commission upon presenting appropriate credentials, to the owner, operator, or agent in charge, are authorized upon written complaint:

(a) To enter, during normal business hours, any factory, warehouse, or establishment within the state in which honey is processed, packed, or held for distribution for retail sales, or to enter any vehicle being used to transport or hold such honey, and sample such honey that is packaged and labeled for retail sale.

(b) To inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein, related to retail sales. The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice rules established under the provisions of this chapter. Each inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(2) Sampling and analysis shall be conducted in accordance with methods prescribed in rules, or in accordance with other generally recognized methods.

(3) The director or commission, in determining for administrative purposes whether a honey is adulterated, shall be guided by the official sample as defined in subsection (7) of section 22-2803, Idaho Code, and obtained and analyzed as provided for in this section.

(4) If the owner of any factory, warehouse, or establishment described in subsection (1) of this section, or authorized agent, refuses to admit the director, commission or an authorized agent to inspect in accordance with subsections (1) and (5) of this section, the director or commission is authorized to obtain from any state court of competent jurisdiction a warrant directing such owner or agent to submit the premises described in such warrant to inspection.

(5) For the enforcement of this chapter, the director, commission or a duly authorized agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine and make copies of records relating to distribution of honey packaged and labeled for retail sale to the public.

(6) The results of all analyses of official samples shall be forwarded by the director or commission to the packer and to the purchaser or retailer.

1 When the inspection and analysis of an official sample indicate the honey has  
2 been adulterated or mislabeled, and upon request by the packer or purchaser  
3 or retailer within thirty (30) days following the receipt of the analysis,  
4 the director or commission shall furnish to the packer or purchaser or re-  
5 tailer a portion of the sample concerned.

6 SECTION 7. That Chapter 28, Title 22, Idaho Code, be, and the same is  
7 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
8 ignated as Section 22-2811, Idaho Code, and to read as follows:

9 22-2811. PENALTIES FOR VIOLATIONS. (1) Any person who violates any  
10 provision of this chapter, or of the rules promulgated hereunder for carry-  
11 ing out the provisions of this chapter, or who fails or refuses to comply with  
12 any requirements herein specified, or who interferes with the department,  
13 its agents or employees, in the execution, or on account of the execution  
14 of its or their duties under this chapter or rules promulgated hereunder,  
15 shall be guilty of a misdemeanor and upon conviction thereof, shall be fined  
16 not more than three thousand dollars (\$3,000) or be imprisoned in a county  
17 jail for not more than twelve (12) months or be subject to both such fine and  
18 imprisonment.

19 (2) Any person who violates or fails to comply with any of the provi-  
20 sions of this chapter or any rules promulgated hereunder may be assessed a  
21 civil penalty by the department or its duly authorized agent of not more than  
22 ten thousand dollars (\$10,000) for each offense and shall be liable for rea-  
23 sonable attorney's fees.

24 (a) Assessment of a civil penalty may be made in conjunction with any  
25 other department administrative action.

26 (b) No civil penalty may be assessed unless the person charged was given  
27 notice and opportunity for a hearing pursuant to the Idaho administra-  
28 tive procedure act.

29 (c) If the department is unable to collect such penalty or if any person  
30 fails to pay all or a set portion of the civil penalty as determined by  
31 the department, it may recover such amount by action in the appropriate  
32 district court.

33 (d) Any person against whom the department has assessed a civil penalty  
34 under the provisions of this section may, within thirty (30) days of the  
35 final action by the agency making the assessment, appeal the assessment  
36 to the district court of the county in which the violation is alleged by  
37 the department to have occurred.

38 (e) All civil penalties collected pursuant to this section shall be re-  
39 mitted to the commission.

40 (3) Nothing in this chapter shall be construed as requiring the com-  
41 mission to report minor violations for prosecution when it believes that the  
42 public interest will be best served by suitable warnings or other adminis-  
43 trative action.

44 SECTION 8. That Chapter 28, Title 22, Idaho Code, be, and the same is  
45 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
46 ignated as Section 22-2812, Idaho Code, and to read as follows:

22-2812. "STOP SALE, USE, OR REMOVAL" ORDERS. (1) In the event the department finds that honey is being offered for sale in violation of this chapter or rules promulgated under this chapter, the department may issue and enforce a written or printed "stop sale, use, or removal" order to the distributor, owner or custodian of the honey and hold the honey, or order it held, at a designated place until the law has been complied with and the honey is released in writing by the department, or the violation has been otherwise legally disposed of by written authority. Unless the department grants a written extension, the owner or custodian of any honey that has been issued a "stop sale, use, or removal" order shall remedy the violation within thirty (30) days. The department shall release the honey so withdrawn when the requirements of this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

(2) Any lot of honey not in compliance with the provisions of this chapter, or rules promulgated under this chapter, shall be subject to seizure on complaint of the commission to a court of competent jurisdiction in the area in which said honey is located. In the event the court finds the said honey to be in violation of the provisions of this chapter and orders the condemnation of said honey, it shall be disposed of in any manner consistent with the quality of the honey and the laws of the state. Provided however, that in no instance shall the disposition of said honey be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said honey or for permission to process or relabel said honey to bring it into compliance with the provisions of this chapter.

SECTION 9. That Section 22-2809, Idaho Code, be, and the same is hereby amended to read as follows:

~~22-2809~~13. PAYMENT OF EXPENSES AND COSTS. All expenses and costs incurred in the administration of this ~~act~~ chapter shall be paid out of the Idaho honey advertising fund. The commission shall keep an accurate record of all costs and expenditures and will report the same by publication on October 1st of each year. All expenses and costs incurred and contracted for by the commission in performing its duties under this ~~act~~ chapter shall be paid out of such Idaho honey advertising fund in the following manner: vouchers shall be approved and submitted by the commission chairman to the director or his designated representative of the Idaho state department of agriculture for approval and subsequent issuance of a warrant by the state controller.

SECTION 10. That Section 22-2810, Idaho Code, be, and the same is hereby amended to read as follows:

~~22-2810~~4. CREDITING OF FUNDS. All moneys which have heretofore been credited to the general fund under the provisions of ~~title 22, chapter 28, Idaho Code,~~ this chapter are hereby transferred to the Idaho Honey Advertising Fund.

SECTION 11. That Section 22-2811, Idaho Code, be, and the same is hereby amended to read as follows:

1        22-28145. PUBLICATION OF REGISTERED BEEKEEPERS. The commission shall  
2 make available to any pesticide applicator registered with the department,  
3 abatement or pest control district, or university of Idaho county agricul-  
4 tural extension office, a list of beekeepers registered with the commission.  
5 The list shall include the names and telephone numbers of the beekeepers, the  
6 counties in which they keep bees, and any other information the commission  
7 deems necessary to assist in the prevention of accidental poisoning of hon-  
8 eybees.